IN THE

Supreme Court of the United States

OCTOBER TERM, 1900.

No. 514.

CHRISTIAN HUUS, LIBELLANT, APPELLANT,

vs.

NEW YORK & PORTO RICO STEAMSHIP COMPANY,
RESPONDENT, APPELLEE.

NOTICE OF MOTION TO ADVANCE.

Please take notice that a motion to advance upon the calendar the hearing of the questions in the above-entitled action, certified to the Supreme Court of the United States by the court of appeals for the second circuit, will be made before the Supreme Court, in the city of Washington, D. C., on the opening of court on Wednesday, December 19, 1900.

LINDSAY, KREMER, KALISH & PALMER,
Proctors for Libellant, Appellant,
27 *William Street, New York, N. Y.*

To Messrs. CURTIS, MALLET-PROVOST & COLT,
Proctors for Respondent, Appellee,
30 *Broad Street, New York, N. Y.*

Service admitted.

CURTIS, MALLET-PROVOST & COLT,
Proctors for Appellee.

Motion to Advance for Hearing January 7, 1901.

The questions certified to this court by the United States circuit court of appeals for the second circuit, concerning which that court desires the instruction of the Supreme Court for its proper decision, are as follows:

(1.) Since the proclamation of the treaty of peace between the United States and the Kingdom of Spain, and the passage of the act of Congress entitled "An act temporarily to provide revenue and a civil government for Porto Rico, and for other purposes," approved April 12, 1900, do Porto Rican ports remain foreign ports in the sense in which these words are used in the statutes of the State of New York regulating pilotage?

(2.) Are vessels engaged in trade between Porto Rican ports and ports of the United States engaged in a coasting trade in the sense in which these words are used in the statutes of the State of New York regulating pilotage?

(3.) Are steam vessels engaged in trade between Porto Rican ports and ports of the United States coastwise vessels in the sense in which these words are used in section 4444 of the Revised Statutes of the United States?

In accordance with the provisions of section 6 of the act of March 3, 1891, entitled "An act to establish circuit courts of appeals, and for other purposes," the foregoing questions of

law are by the circuit court of appeals for the second circuit hereby certified to the Supreme Court.

Stated this 17th day of December, 1900.

W. J. WALLACE,
E. HENRY LACOMBE,
N. SHIPMAN,
Judges of the Circuit Court of Appeals for the Second Circuit.

A decree dismissing the libel in the above-entitled action having been made in the circuit court of the United States for the southern district of New York, and an appeal having been taken therefrom to the circuit court of appeals for the second circuit, and the cause having come on for final hearing, certain questions of law arose concerning which the said court of appeals desires the instruction of the Supreme Court of the United States for its proper decision. Generally speaking, these facts out of which the questions arose are as follows:

The action was brought by libellant to recover spoken pilotage amounting to the sum of $74.34. The respondent denied the right to such recovery.

Libellant, on the 25th of June, 1900, offered his services as Sandy Hook pilot to the master of the American-built steamship *Ponce*, hailing from New York and belonging to the New York and Porto Rico Steamship Company, a New York corporation, to take said vessel into the harbor of New York by way of Sandy Hook, the said vessel being at said time bound from the port of San Juan, in the island of Porto Rico.

The said libellant was a Sandy Hook pilot, duly licensed under the laws of the State of New York and competent to act as such. He was the first and only pilot offering his services, but the master of the vessel declined the services of such pilot, and himself brought his vessel into the port of New York by way of Sandy Hook. The aforesaid amount is the regular pilotage prescribed by statute for vessels of the draft of the *Ponce*, and said amount was demanded of the owner of the vessel, and payment thereof refused.

Said steamship *Ponce* was at the time enrolled under the laws of the United States and licensed to be employed in carrying on a coasting trade, and her master was duly licensed to act as pilot in the bay and harbor of New York, under the laws of the United States. Said vessel at the time mentioned was engaged in trade between the island of Porto Rico and the port of New York, and ladened with a cargo of merchandise shipped at San Juan, including sugar, for delivery at New York. Said vessel at the time mentioned was not a registered vessel and was sailing under a license, as aforesaid.

On these facts, and in view of the certificate of the said circuit court of appeals, the libellant, appellant, Christian Huus, by his counsel, William Lindsay, comes and moves the court to advance this cause to be heard on the 7th day of January, 1901, with the other causes set for that day involving the relations of Porto Rico to and with the United States.

WILLIAM LINDSAY,
Of Counsel for Appellant.